



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,524	01/02/2004	Charles Cameron Brackett	CRNC.110413	8682
46169 7590 02/22/2007 SHOOK, HARDY & BACON L.L.P. Intellectual Property Department 2555 GRAND BOULEVARD KANSAS CITY, MO 64108-2613			EXAMINER TIMBLIN, ROBERT M	
			ART UNIT 2167	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/22/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/749,524	Applicant(s) BRACKETT ET AL.	
	Examiner Robert M. Timblin	Art Unit 2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action corresponds to application 10/749,524 filed 1/2/2004.

Claims 1-28 have been examined and are pending prosecution.

Response to Amendment

Drawings

The amendments made to the specification have been accepted and overcome the previous objection. Therefore the previous objection is withdrawn.

Claim Objections

The amendments made to the claims in light of the objections have been accepted and therefore are withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 8-12, 16-19, 23-26 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Minyard et al. ('Minyard')(US 6,891,920 B1).

With respect to claim 1 and corresponding claims 8 and 28, Minyard teaches A computerized method for managing large studies (abstract) transferred from at least one acquisition device (102, 206) to a study process server (104) in order to transfer the studies to at least one review station (110), the computerized method comprising:

‘sorting each received study into at least one appropriate working set’ as patient information is indexed and organized (col. 4 line 45-57, and col. 6 line 14-51).

prior to distributing the received studies to at least one review station,

‘selecting at least one subset of the received studies from at least one working set’ as tagging a subset of images (col. 4 line 45-57 and col. 12 line 48-54).

‘distributing the at least one selected subset of studies to at least one review station’ as physician recalls the tagged images for later review (col. 4 line 1-5 and 45-57).

With respect to claims 2,9, 16, and 23, Minyard teaches ‘distributing the selected subset of studies to each review station’ (figure 1, elements 104 and 110).

With respect to claims 3, 10, 17, and 24, Minyard teaches ‘a predictive algorithm’ (col. 3 line 50-col.4 line 6, col. 7 line 5-12 col. 8 line 8-29 and).

With respect to claims 4, 11,18, and 25, Minyard teaches ‘continuously monitoring a review station to determine if a distributed study has been completed and removing the study from an associated working set after the study has been completed’ as monitoring acquisition and review processes (col. 8 line 25-27 and col. 14 line 35-39).

With respect to claims 5, 12, 19, and 26, Minyard teaches 'deleting the completed study from some or all review stations' as removing entire workflow (col. 14 lines 28-41).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-7,13-14, and 20-21, are rejected under 35 U.S.C. 103(a) as being unpatentable over Minyard as applied to claims 1-5, 8-12, 16-19, 23-26 and 28 above in view of Fuller (US 2005/0050552 A1).

With respect to claims 6-7,13-14, and 20-21, Minyard fails to teach monitoring each review station for selected user activities and populating each monitored review station with studies from one or more relevant working sets upon detecting the detecting one of the selected user activities.

Fuller, however, teaches this limitation as checking the amount of data in a data queue, and if the amount is lower than a pre-selected threshold, the queue is populated with new data (0019 and figure 3) to ensure requested data are available for immediate delivery.

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine the teachings of the cited references because Fuller's system

Art Unit: 2167

would have provided Minyard's invention with enhancing the likelihood that the requested data are available for immediate delivery (Fuller, 0004).

Claims 15, 22, and 27, are rejected under 35 U.S.C. 103(a) as being unpatentable over Minyard in view of Rothschild et al. ('Rothschild') (US 2002/0016718 A1).

With respect to claims 15, 22, and 27, the limitations of these claims are rejected for the same reasons as set forth above in claims 1, 8, and 28 by Minyard and claims 6-7,13-14, and 20-21 by the combination of Minyard and Fuller.

Unfortunately, Minyard fails to teach the limitation of monitoring each selected review station for a login.

Rothschild, however, teaches this limitation as a remote workstation polling for data upon the occurrence of a predetermined triggering event (i.e. a log in event) for detecting a log in (0085-0086).

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine the teachings of the cited references because Rothschild would have allowed Minyard/Fuller's invention to detect a log in.

Response to Arguments

Applicant's arguments filed 9/27/2006 have been fully considered but they are not persuasive.

The Applicant argues on page 12 of the remarks that Minyard fails to describe the claimed prior to distributing the received studies to at least one review station, selecting at least one subset of the received studies from at least one working set and subsequently distributing the at least one selected subset of studies to at least one review station. The Examiner respectfully disagrees as explained below:

The Examiner submits that a physician tags (i.e. selects) a subset of images from a large number of images for later review (col. 4 line 50-58). Minyard's description of tagging a subset of images is the same as selecting the presently claimed selecting at least one subset that forms a working set (e.g. for later review).

With the idea that this subset of images is tagged for later review, it can easily be construed that this is a step that constitutes a *prior* action to distributing the subset to a review station. In other words when the subset is subsequently reviewed (i.e. a later review), it must have already been tagged and selected before it was received for later review. Furthermore a physician can readily recall the tagged images, which also suggests that the images must have been selected before being received at the at least one review station.

On page 13, the Applicant disagrees with the motivation to combine the Minyard and Fuller references.

The Examiner respectfully traverses for the reasons stated in the rejection above. The Examiner further would like to indicate that the Minyard and Fuller reference are analogous and in the same field of endeavor as both are at least related to processing and delivering data in a network environment. Fuller states their goal for making data available for delivery to an

Art Unit: 2167

application, and likewise, Minyard is also directed towards making information available (at col. 2 line 5-8). Furthermore, Fuller's teachings that enhance the likelihood of requested data being available for immediate delivery (Fuller at 0004 and abstract) would have given an advantage to Minyard's system that readily recalls data by a user (i.e. a physician). Minyard discloses a specific need for reducing workflow delay (abstract) so that rapid access can be achieved (summary).

On pages 17-18, the Applicant disagrees with the motivation to combine Rothschild with Minyard and Fuller.

The Examiner respectfully traverses for the reasons stated in the rejection above.

In the same field of endeavor, all three references are analogous for at least being associated with the intended goal to improved information retrieval by making data readily available. Rothschild's invention is directed towards securely managing the transmission and review of medical images. As such, if their method were to be combined with Minyard's and Fuller's, there would be a method to detect a triggering event (i.e. a login) that would poll for queued data from a central data management system to provide efficient image delivery (Rothschild at 0093). This method would further improve the desire to reduce workflow delay (Minyard, abstract).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

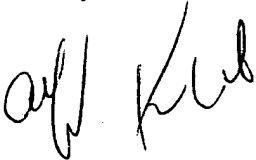
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Timblin whose telephone number is 571-272-5627. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Cottingham can be reached on 571-272-7079. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

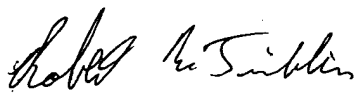
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

Art Unit: 2167

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


ALFORD KINDRED
PRIMARY EXAMINER

Robert M. Timblin


Patent Examiner AU 2167
2/12/2007